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9 **IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

10 NAOMI WEIZMAN, individually and on
11 behalf of all others similarly situated,

12 *Plaintiff,*

13 v.

14 TALKSPACE, INC., a New York
corporation,

15 *Defendant.*
16

Case No.:

CLASS ACTION COMPLAINT FOR:

(1) Violations of 6 Del. Code § 2511, *et al.*; and
(2) Violations of Cal. Bus. & Prof. Code §
17200, *et seq.*

DEMAND FOR JURY TRIAL

17 Plaintiff Naomi Weizman, on behalf of herself and other similarly situated individuals,
18 brings this Class Action Complaint and Demand for Jury Trial against Defendant Talkspace, Inc.
19 (“Talkspace” or “Defendant”) to stop it from misleading patients and unlawfully enrolling them
20 in its automatically renewing subscription program. Plaintiff alleges as follows upon personal
21 knowledge as to herself and her own acts and experiences, and, as to all other matters, upon
22 information and belief.

23 **NATURE OF THE ACTION**

24 1. Talkspace holds itself out as an online platform that provides accessible and high-
25 quality mental health services through one-on-one virtual therapy sessions. The company was
26 launched in 2015 and quickly raised more than \$100 million from private equity investors. Since
27 then, Talkspace poured its resources into marketing and advertising, and as a result, rapidly grew
28 its user base. But unfortunately for its patients, Talkspace failed to invest in building a network

1 of qualified therapists large enough to meet demand. By 2019, Talkspace had tens of thousands
2 of paying patients, but not nearly enough therapists to treat them.

3 2. When therapists in a traditional psychology or psychiatry practice are too busy to
4 take on new patients, they turn them away or put them on a waitlist. But Talkspace—which was
5 founded by two individuals that held no medical licenses and had no experience working in the
6 healthcare sector—bears no resemblance to a traditional therapy practice. Talkspace is a for-
7 profit corporation engaged in the practice of healthcare. Instead of sacrificing growth and profit
8 by turning away new patients, Talkspace continued to accept new patients even when there were
9 no therapists available to treat them, let alone therapists that were suitable to treat them based on
10 their stated therapeutic needs (*i.e.*, substance abuse, depression, anxiety, etc.).

11 3. Rather than disclose this overcapacity issue to new patients, Talkspace deceives
12 them in two ways. First, it creates the false impression that Talkspace has a large enough
13 network of therapists to meet demand and that new patients will be matched with a therapist
14 suitable to treat their specific therapeutic needs within 48 hours. In reality, Talkspace ignores the
15 patient’s stated therapeutic needs and ultimately simply assigns a therapist based on availability.¹
16 In fact, many new patients are forced to wait several weeks or even longer only to eventually be
17 paired with an unsuitable or incompatible therapist.² While this “matching” policy might help
18 Talkspace achieve its short-term growth and revenue targets, it endangers the patients that put
19 their trust in Talkspace to treat their mental health.

20 4. Second, the moment that new patients are “matched” with a therapist, Talkspace
21 unilaterally enrolls them in an automatically recurring subscription plan without their permission.
22 Talkspace enrolls new patients into its recurring plans even when their assigned therapists are

23
24 ¹ By assigning therapists that lack the training and experience necessary to treat patients’
25 stated therapeutic needs, Talkspace’s matching policy violates the American Counseling
26 Association’s Code of Ethics. *See, e.g.*, Rule C.2.a. (Boundaries of Competence) (“Counselors
27 practice only within the boundaries of their competence, based on their education, training,
28 supervised experience, state and national professional credentials, and appropriate professional
experience”); Rule C.2.b. (New Specialty Areas of Practice) (“Counselors practice in specialty
areas new to them only after appropriate education, training, and supervised experience. While
developing skills in new specialty areas, counselors take steps to ensure the competence of their
work and protect others from possible harm.”).

² Talkspace forces many of its in-house therapists to treat upwards of *60 clients per week*—
about twice as many clients as the average full-time therapist treats in a traditional practice.

1 unsuitable for their therapeutic needs or have no availability to schedule therapy sessions that
 2 have already been paid for. To make matters worse, Talkspace forces its patients to forfeit all
 3 paid-for therapy sessions that are not used within 30 days—even when their assigned therapist
 4 has no availability during that time frame.

5 5. By prioritizing profits over patients, Talkspace betrayed the very mission that it
 6 claimed to uphold. Talkspace’s unethical and fraudulent business practices put vulnerable
 7 patients at risk, depriving them of the care they deserved and damaging their trust in the mental
 8 health industry as a whole.

9 6. Plaintiff brings this lawsuit on behalf of herself and other similarly situated
 10 individuals to hold Talkspace accountable for its fraudulent misrepresentations and unlawful
 11 billing practices, and to send a clear message that mental health services must prioritize patient
 12 well-being and adhere to ethical standards.

13 **PARTIES**

14 7. Plaintiff Naomi Weizman is a natural person and citizen of the State of California.

15 8. Defendant Talkspace is a New York corporation company organized and existing
 16 under the laws of the State of Delaware with its principal place of business located at 2578
 17 Broadway, Suite 607, New York, New York.

18 **JURISDICTION AND VENUE**

19 9. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2)
 20 because (i) at least one member of the Classes is a citizen of a different state than any Defendant,
 21 (ii) the amount in controversy exceeds \$5,000,000, exclusive of interests and costs, and (iii) none
 22 of the exceptions under that subsection apply to this action.

23 10. This Court has personal jurisdiction over Defendant because Defendant conducts
 24 business in the State of California and maintains a network of therapists that are licensed by the
 25 State of California.

26 11. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a substantial part of the
 27 events or omissions giving rise to Plaintiff’s claims occurred, in a substantial part, in the District.
 28

DIVISIONAL ASSIGNMENT

12. Pursuant to Northern District of California Civil Local Rules 3-2(c), 3-2(e), and 3-5(b), assignment to the San Jose Division is proper because a substantial part of the events giving rise to the Plaintiff's claims occurred, in substantial part, in Santa Cruz County, and Plaintiff resides in Santa Cruz County.

FACTUAL ALLEGATIONS

Talkspace Operates Like a Startup Seeking Rapid Growth And Outsized Returns Rather Than a Legitimate Therapy Practice

13. Oren Frank and Roni Frank founded Talkspace in 2011 after a positive experience with marriage counseling, Talkspace offered "therapy on demand" to customers through a digital platform that enabled text-based therapy, with options for audio or video sessions as well. Mr. Frank, who served as CEO, had a background in marketing. Mrs. Frank, who served as Head of Clinical Services, had a background in software development.

14. Over the next decade, Talkspace grew rapidly, becoming a major player in the emerging field of virtual mental health services. The company raised over \$100 million from venture capital and private equity firm through multiple rounds of funding and established a recognizable brand through celebrity endorsement deals with Michael Phelps and Demi Lovato. The company offered rapid growth to investors based on a combination of widespread need and barriers to access. Millions of people suffering anxiety, depression, and other mental health challenges could not find a therapist and Talkspace promised a solution through its digital platform.

15. When the COVID-19 pandemic began in early 2020, Talkspace's growth accelerated even more as people turned to telehealth amid lockdowns and social isolation. As Talkspace's then Chief Medical Officer described the explosion, "Unfortunately or fortunately, we're seeing significant growth, as high as 65% to 70% in the last month of new clients coming into treatment. And we're seeing growth coming from every aspect of people seeking help."³

³ Matthew Perrone, *Virus drives new demand for Talkspace's online therapy*, ASSOCIATED PRESS (May 10, 2020), <https://bit.ly/3KNk0nK>.

1 16. In 2021, Talkspace went public through a merger with Hudson Executive
2 Investment Corporation, a special purpose acquisition company founded and sponsored by
3 Hudson Executive Capital. Hudson Executive Capital specializes in finding “opportunities to
4 create outsized returns.”⁴

5 17. The deal valued Talkspace at \$1.4 billion based on its tremendous growth, the
6 ongoing COVID-19 pandemic, and the needs of millions of suffering people. In an investor
7 presentation about the merger, Talkspace emphasized the “enormous [total addressable market]”
8 of people in need. Talkspace even touted the 30% increase in the annual suicide rate in the
9 United States since 2001 as evidence of a massive untapped market. For Talkspace, people in
10 need of mental health services represented the promise of outsized returns for Talkspace
11 shareholders.⁵

12 18. Talkspace’s relentless quest for growth and profit created a fundamental tension
13 within the company. The delivery of health care took a backseat to its profit-centric business
14 function. This tension manifested in shocking ways, including, but not limited to, major breaches
15 of patient confidentiality, false advertising, and the decision to force patients into automatically
16 recurring subscription plans without notice or permission.

17 19. Talkspace displayed routine carelessness with patient confidentiality. For
18 example, a FORBES article from 2016 recounts that after a therapist was removed from the
19 platform, a non-clinical Talkspace employee contacted the therapist’s patients directly by email
20 to inform them they could no longer see their therapist or even transition out of that therapist’s
21 care.⁶ Though that breach of confidentiality alone is wildly inappropriate, the non-clinical
22 Talkspace employee made matters much worse by sending that email “as a mass email with all
23 18 [patient] email addresses clearly and fully exposed.”

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25
26 ⁴ Hudson Executive Capital, <https://www.hudsonexecutive.com/> (last visited Feb. 28, 2023).

27 ⁵ Oren Frank, et al., Talkspace, Inc., Investor Presentation at 8 (Jan. 2021),
<https://www.sec.gov/Archives/edgar/data/1803901/000119312521007698/d74855dex992.htm>.

28 ⁶ Todd Essig, *Talkspace Reveals Clients’ Email, Violating Clinical Confidentiality*, FORBES (Aug. 18, 2016), <https://www.forbes.com/sites/toddessig/2016/08/18/talkspace-reveals-clients-email-violating-clinical-confidentiality/?sh=4ad3dbc54652>.

20. Unfortunately for its patients, that was not a one-off event. A NEW YORK TIMES investigative report described a pattern of such violations.⁷ In that article, a therapist who worked for Talkspace from 2015-2017 recounted that a Talkspace employee contacted her to discuss the mental health resources that she chose to share with patients during their confidential therapy sessions: “I was like, ‘How do you know I did that?’ . . . [Talkspace] said it was private, but it wasn’t.” Two former Talkspace employees confirmed her fears to the NEW YORK TIMES — they said Talkspace mined confidential therapy sessions for phrases to share with the marketing team “so that it could better target potential customers.”

21. In June 2022, the widespread media coverage⁸ of Talkspace putting profits over patients caused three United States Senators to send a letter to the company requesting clarification and information about their privacy policy.⁹ The Senators expressed concern because of “mounting evidence” that Talkspace engaged in “collecting, mining and disseminating private information about their clients.”

22. Talkspace’s subordination of its health care function to business concerns is fundamental to its promise of rapid growth and outsized returns.

Talkspace lures new patients by making materially false statements about its so-called “proprietary matching algorithm”

23. Talkspace touts its “proprietary matching algorithm” as the key to efficient and

⁷ Kashmir Hill and Aaron Krolik, *At Talkspace, Start-Up Culture Collides with Mental Health Concerns*, N.Y. TIMES (Aug. 7, 2020), <https://www.nytimes.com/2020/08/07/technology/talkspace.html>.

⁸ See, e.g., P.E. Moskowitz, *Therapy Apps are the Ubers of Mental Health*, BUSINESS INSIDER (Feb. 6, 2022), <https://www.businessinsider.com/betterhelp-talkspace-apps-uber-of-mental-health-text-therapy-2022-2>; Molly Fischer, *The Therapy-App Fantasy: An Overwhelming Demand for Counseling Has Spawned Slickly Marketed Companies Promising a Service They Cannot Possibly Provide*, NEW YORK MAGAZINE (Mar. 29, 2021), <https://www.thecut.com/article/mental-health-therapy-apps.html>; Kira Herzog, *Mental Health Apps Draw Wave of New Users As Experts Call for More Oversight*, CNBC (May 24, 2020) <https://www.cnbc.com/2020/05/24/mental-health-apps-draw-wave-of-users-as-experts-call-for-oversight.html>; Cat Ferguson, *Breakdown: Inside the Messy World of Anonymous Therapy App Talkspace*, THE VERGE (Dec. 19, 2016), <https://www.theverge.com/2016/12/19/14004442/talkspace-therapy-app-reviews-patient-safety-privacy-liability-online>.

⁹ Letter from Sens. Cory A. Booker, Elizabeth Warren, and Ron Wyden (June 22, 2022), <https://www.warren.senate.gov/imo/media/doc/2022.06.22%20Letter%20to%20Mental%20Health%20Apps%20on%20Data%20Privacy%20and%20Sharing1.pdf>.

1 effective therapy. Patients who have filled out their assessment are promised a “personalized
2 match” based on those answers “typically within 48 hours.” Ultimately, Talkspace notifies
3 patients through email that their supposed “personalized matches” have been identified. Patients
4 are instructed to select one of the three therapist options it has provided.

5 24. It is at that point — well before patients have any opportunity whatsoever to
6 evaluate the three options provided or review their credentials and training — that Talkspace
7 charges the patients’ credit cards and enters them into its automatically recurring monthly
8 subscription.

9 25. Because Talkspace hopes to compete and even replace traditional face-to-face
10 therapy, its promise to match patients effectively through proprietary algorithms is a key to its
11 success. As Talkspace itself acknowledges, a good match is vital to success in therapy.¹⁰

12 26. Unfortunately, Talkspace’s so-called algorithm and intake process consistently
13 fail to offer patients useful matches. In many cases, Talkspace just ignores basic requests like
14 gender or specialty. For example, a journalist for NEW YORK MAGAZINE used the platform and
15 requested a female therapist. Talkspace displayed her matches with a message that said “We’ve
16 prioritized female providers who specialize in anxiety.” Beneath the message were three men.
17 Whatever makes the algorithm “proprietary,” it’s not personalization as advertised. Upon
18 information and belief, the algorithm relies on, at best, the therapists’ availability and little else.

19 27. Talkspace’s inability to return adequate matches is another result of the
20 fundamental tension at the heart of the company that pits rapid profit and growth against patient
21 care. Just as it negatively affects patients, this tension also strains the therapists on the platform
22 as well. Talkspace therapists often manage massive caseloads that make personalized care, or
23 any care at all, nearly impossible. Employee reviews on websites like Glassdoor and Indeed
24 confirm that excessive caseloads and a focus on growth undermine clinical work.

25 ***Talkspace Deceptively Enrolls Customers into Automatically Renewing Subscription Programs***

26 28. To achieve its revenue and profit goals, Talkspace knows and understands that it
27

28 ¹⁰ Tamara Stevens, *What to Consider if You Want to Switch Therapists*, TALKSPACE BLOG,
<https://www.talkspace.com/blog/switch-therapists-how-to/> (last updated Nov. 10, 2022).

1 must both attract and retain new patients. Talkspace accomplishes these goals first by misleading
 2 new patients about the availability and suitability of the therapists they will be “matched” with,
 3 and second by secretly locking patients into an automatically renewing subscription program. As
 4 shown below, Talkspace fails to notify or seek permission from patients before placing them into
 5 its automatically renewing subscription program and makes matters worse by failing to provide
 6 notice of its cancellation policy. In short, Talkspace forces its patients to jump through numerous
 7 hoops just to cancel an extremely expensive subscription that they never signed up for.

8 29. To start, new patients navigate to the Talkspace website or app and are presented
 9 with a menu of counseling services. After choosing a service, they complete an assessment and
 10 indicate whether they will pay out of pocket, through health insurance, or through an employer.

11 30. Regardless of the payment method, Talkspace informs patients that they “won’t
 12 be charged until” they match with a therapist:

Great work!

What happens next?

Our team is hard at work matching you with a provider that meets your needs and preferences. We’ll connect you with your provider as soon as possible, but please note the matching process can take a few days.

How does payment work?

If your plan requires payment, we’ll collect your information. To secure your match, you’ll see a hold on your account. Don’t worry, you won’t be charged until you have your match.

We’re committed to your satisfaction

We know how important the provider-client relationship is. If you need anything at all, don’t hesitate to reach out to us.

Continue

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21 31. Upon pressing “Continue,” Talkspace offers the new patient a menu of options:
 22 live therapy, messaging therapy, or live and messaging therapy, along with the price per week:

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Choose plan Review details Checkout

\$25 off per week for the first 4 weeks
Discount automatically applied at checkout.

Best plan for you
You will not be charged until you've been matched with a provider. Switch plans or cancel anytime after subscribing.

Recommended

\$99/week
Your price: \$74 (you save \$25)
Live Therapy
4 Live Session/month (45 min)
Live sessions
Select plan

\$69/week
Your price: \$44 (you save \$25)
Messaging Therapy
Text, video & audio messaging
Guaranteed Daily Responses 5 days/week
Select plan

\$129/week
Your price: \$104 (you save \$25)
Live + Messaging Therapy
4 Live Session/month (45 min)
Live sessions +
Text, video & audio messaging. Guaranteed
Daily Responses 5 days/week.
Select plan

GUARANTEED RESPONSE TIME HIPAA COMPLIANT SECURE SSL FDA/HSA APPROVED

32. After selecting a plan, Talkspace displays a screen that provides a “Summary” of the therapy plan — in this example, (4x\$74) means 4 therapy sessions at a cost of \$74 each — along with the “Total due on match” amount, which in this example is \$296:

Choose plan Review details Checkout

Review your therapy plan
You're ready to begin!

Apply a coupon
SPACE ☒ Apply

Subscription plan: [Change](#)
Live Therapy, Monthly
4 Live Session/month (45 min)
Live sessions

Continue to checkout

This is a secure SSL encrypted payment.

Summary
Live Therapy (4x\$74) \$396
First charge promo SPACE **-\$100**

Your savings **-\$100**
Total due on match **\$296**

You will not be charged until you've been matched with a provider.

GUARANTEED RESPONSE TIME HIPAA COMPLIANT SECURE SSL FDA/HSA APPROVED

33. Upon pressing the “Continue to checkout” button, Talkspace sends the new patient to a different webpage (the “Checkout Page”) where they are prompted to input their credit card information and authorize Talkspace to charge “the total due on match”:

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✓ Choose plan

✓ Review details

Checkout

Your savings

Total due on match


-\$100

\$296


Payment details

Enter payment details for pre-authorization. You will not be charged the full amount until you've been matched with a provider.

Email

Card number
 

Expiration

CVC
 





Country

ZIP

By providing your card information, you allow Talkspace to charge your card for future payments in accordance with their terms.

Authorize my credit card

This is a secure SSL encrypted payment

 GUARANTEED RESPONSE TIME
  HIPAA
  SECURE SSL
  FSA/HSA Approved

14 34. Neither this Checkout Page nor any of the previous webpages mention *anything*
15 about automatically renewing charges, and nowhere in the screen flow does Talkspace obtain (or
16 even seek) new patients' consent to automatically enroll them into a subscription plan.

17 35. Talkspace fails to adequately disclose its renewal scheme or purposefully
18 misrepresents it in at least the following ways:

- 19 (a) Prices are shown and calculated in *weekly* increments even though the term
20 of the automatic renewal is monthly;
- 21 (b) Talkspace fails to describe the plan as an automatically renewing
22 subscription plan;
- 23 (c) Talkspace fails to present the terms of the automatic renewal plan in
24 contrasting text of a distinct size or color;
- 25 (d) The Checkout Page — on which consumers enter their credit card number
26 and authorize Talkspace to charge their credit card — fails to mention or
27 reference anything about a subscription or automatic monthly renewal
28 program; and

1 (e) Talkspace fails to identify, much less mention, a cancellation policy.

2 36. The wording and visual design of Talkspace’s sign-up process deceives customers
3 into unknowingly purchasing an automatically renewing monthly plan.

4 37. Though the Checkout Page makes a vague mention of “future payments” above
5 the “Authorize my credit card” button — “By providing your card information, you allow
6 Talkspace to charge your card for future payments in accordance with their terms” — Talkspace
7 chose to display this language in a lighter color and smaller font than the rest of the text on the
8 page, and in any event, the language does not say anything about an automatically recurring
9 subscription plan. Further, the reference to Talkspace’s “terms” is also vague and misleading
10 because at this point in the screen flow, new patients have not been presented with or been asked
11 to accept any terms of service whatsoever. Thus, Talkspace’s vague and ambiguous reference to
12 “future payments” fails to adequately notify patients about the existence of its automatically
13 recurring subscription plan and fails to serve as evidence of consent from the patient to be
14 enrolled into its automatically recurring subscription plan.

15 ***Though Never Disclosed To Patients, Talkspace’s Therapy Sessions Expire in 30 Days***

16 38. New patients expect to receive the therapy services they purchased at the price
17 identified on the Checkout Page. But that is not how Talkspace works.

18 39. Unbeknownst to patients, Talkspace does not actually sell them therapy services
19 as advertised. Instead, patients receive mere *credits* for therapy services that expire at the end of
20 every month.

21 40. Talkspace charges patients for therapy services whether or not they actually
22 receive them, even when the therapist has no availability in his or her schedule.

23 41. In fact, one of the most common complaints about Talkspace is that the company
24 will “match” new patients with a therapist who then has no availability for an appointment for
25 several weeks or months.

26 42. To make matters worse, patient requests for a specific type of therapist — based
27 on specialty area, experience, or gender — are oftentimes ignored by Talkspace. Even though
28

1 these patients are not matched with any therapists that meet their criteria, Talkspace nonetheless
2 still charges their credit card and enters them into its automatically enrolling subscription plan.

3 43. This practice is deceptive and unfair, especially given that Talkspace represents
4 on its website that some of the “Benefits of Talkspace” are that patients “eliminate commute []
5 and scheduling hassles,” patients can “seamlessly switch providers, at no extra cost,” and that
6 patients “save money while receiving high-quality care. Talkspace’s Terms of Use, which all
7 new patients accept, likewise represents that “If you feel that the Provider does not meet your
8 expectations, you may change to a different Provider at any time.”¹¹

9 44. Given that Talkspace does not provide new patients the opportunity to meet or
10 interview the therapists they “match” with before signing up and providing their payment
11 information, the ability to seamlessly change providers at any time is material to every patients’
12 decision to join Talkspace.

13 ***Thousands of Patients Have Posted Complaints About Talkspace’s Automatic Renewal Scheme***
14 ***and Therapist Availability Problems***

15 45. Thousands of patients have posted complaints on the Better Business Bureau
16 (“BBB”) platform, among others, about their problems and concerns with Talkspace.

17 46. A recent BBB complaint laments, “I was so unfulfilled . . . I have not used your
18 services since May and do not understand why I was billed . . . on June 13th, 2022. Please advise
19 as soon as possible.”¹²

20 47. A BBB review describes how automatic renewal works when Talkspace fails to
21 provide any services:

22 They charge you \$276 for [the] month in advance. It took like 4 days to find a
23 therapist while still getting charged. The therapist did nothing other send a bunch
24 of assessments. We rarely talked about them. We rarely talked in general. At one
25 point we didn’t talk for two weeks. Then I was charged for another month. So I
26 canceled a few days into the new month. I left multiple messages with customer

27 ¹¹ *Talkspace Terms of Use*, Talkspace, Inc., <https://www.talkspace.com/public/terms> (last
28 accessed Feb. 28, 2023).

¹² Initial Complaint Dated 6/21/22, BBB. <https://www.bbb.org/us/ny/new-york/profile/health-care-referral/talkspace-office-0121-149740/complaints>.

1 service and they ignored it. Don't try calling because it will tell you they don't have
2 phone customer service.¹³

3 48. Numerous reviewers expressed frustration about automatic charges throughout the
4 inefficient matching process. For instance, one BBB complaint describes trying to schedule with
5 a therapist who had no availability. The patient decided to switch providers, but Talkspace failed
6 to match them with anyone new before their next automatic renewal charge hit:

7 I still don't have a new provider but was charged for therapy all of this month
8 without being able to have a single appointment or chat with any provider . . . Its
unacceptable to me that I was charged for a month of therapy and given nothing.¹⁴

9 49. Another BBB complaint describes an unresponsive therapist that cancelled two
10 appointments in a row:

11 I cancelled the subscription immediately after seeing that I was charged for a second
12 month of therapy services without Talkspace ever fulfilling my first month of
therapy appointments! Now I have been charged almost ONE THOUSAND
13 DOLLARS and have had only one appointment!¹⁵

14 50. There are hundreds of similar reviews and BBB complaints online:



15 Ryan S



10/30/2021

16 I changed my card information because I wasn't able to cancel my subscription. Some how
17 they managed to get my new card information and still charged my account. I have tried
18 contacting customer service and have not gotten a response. As far as the service goes the
19 person helping me rarely acknowledge what I was talking about but instead would just send
20 test and rarely directly address issues and concerns I had. The second I quit responding and
21 tried to cancel I got more responses. Plan on only getting a response every 5 to 7 days
22 consisting of a sentence or two or a one minute audio response.

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26 ¹³ Review Dated 5/14/22, BBB, <https://www.bbb.org/us/ny/new-york/profile/health-care-referral/talkspace-office-0121-149740/customer-reviews>.

27 ¹⁴ Initial Complaint Dated 6/9/22, BBB, <https://www.bbb.org/us/ny/new-york/profile/health-care-referral/talkspace-office-0121-149740/complaints>.

28 ¹⁵ Initial Complaint Dated 6/13/22, BBB, <https://www.bbb.org/us/ny/new-york/profile/health-care-referral/talkspace-office-0121-149740/complaints>.



KS



10/13/2021

Zero stars actually. They charge you for a month and then a "matching agent" "helps" you find a therapist. I was asked to give them all kinds of information so they could "help" me find a therapist. First therapist offered none of the the therapy styles I requested in my intake. After 5 days matched with a second therapist I was told she couldn't treat anyone outside of her home state. Tried to get matched a third time and the matching agent was unresponsive/never sent me any additional matches. This app is disgusting. When I asked for a refund, after receiving not one therapy session, they actually charged me for the week they spent wasting my time. DO NOT USE TALKSPACE IF YOU ARE DEPRESSED, ANXIOUS, OR EXPERIENCING ANY SERIOUS MENTAL HEALTH ISSUES!! I believe this app is unprofessional and highly irresponsible. I am lucky to have a small support system in place, but a person reaching out in desperation, lonely and depressed, could be pushed over the edge by the rejection, ghosting, and complete disregard for the very thing they claim to help with, your sanity. They really need to stop marketing themselves to treat serious mental health issues as this kind of advertising is downright dangerous. Mental health is serious, their irresponsibility could be costing lives!

51. Consumers sharing verified reviews in the Google and Apple app store express the same disbelief with Talkspace's deception. As one review summarized it: "They automatically renewed my account, which I never signed up for. Then the credits expired before I even knew I was charged for them. Customer service is nonexistent. Gives you the runaround instead of just processing a refund. Still trying to get a refund." That review and many others like it are reproduced below:

Auto Renews with Expiration on services

Fri



JamesJYP

They automatically auto renewed my account, which I never signed up for. Then the credits expired before I even knew I was charged for them. Customer service is nonexistent. Gives you the runaround instead of just processing a refund. Still trying to get a refund.

BUYER BEWARE THIS IS A SCAM

Sun



Brown143

My husband and I never received a single session after multiple attempts to schedule. We were double charged \$872 and only received \$572 back. We are out \$300 and we never even talked to a single person. This company should be ashamed, we reached out in crisis and here we are a week later left with nothing but rearranged schedules, unnecessary childcare for appointments that never happened and we are \$300 poorer. Talkspace managed to unite us on one thing, that we were fools for trying this pseudoscience peddling app.

This is a scam

Jul 22



unkown user 1892639

You have to paid to get matched with a therapist. Once I did, my therapist wasn't free for a month. I tried to cancel but was only offered 75% refund even though it was only 3 days and I used no service. It gave me an option to contact support and plead my case. It took them a week to get back to me and they said they wouldn't give me a full refund. I went to get my refund and it went down to 50% because it took them so long to respond. This company prays on those in need.

customer service does not respond

Jul 20



Ariesinapril

the system works fine if you're initially matched to a counselor that will work for you. If not, the system will not allow you to switch, it will tell you to contact customer support and they will not get back to you. Several weeks later you'll get a response telling you to try the steps you've already taken that don't work. And they will bill you for those sessions that you've never attended and there's no way to get a refund until (ha) you contact customer service to get a response because by then, it will have been too long since your session that never happened. There's also no way to remove your match that you wanted to replace.



Nathan Tolbert



★☆☆☆☆ June 29, 2022

Extremely limited options for subscriptions. Sessions are done on a "credit" basis with one credit in your subscription equally one session with a therapist. Those credits expire 30 days after purchase, regardless of whether your therapist is on vacation for some of that time or not. Support from Talkspace itself is virtually non-existent. You'll get an automated reply first that says you must reply to it to get help after submitting a request for help. Just a poorly done app

Did you find this helpful?

Yes

No

T755

**Opposite of their platform**

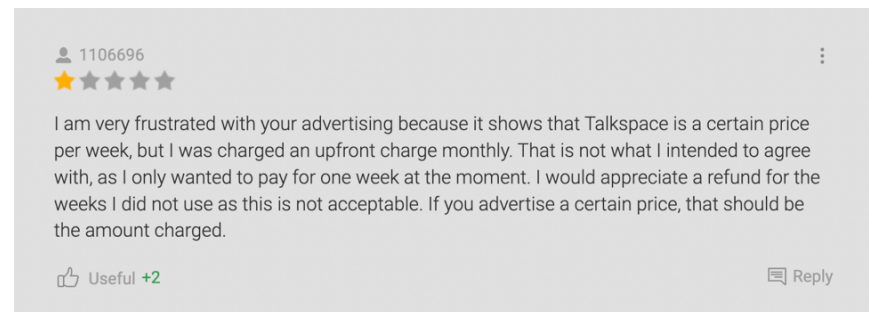
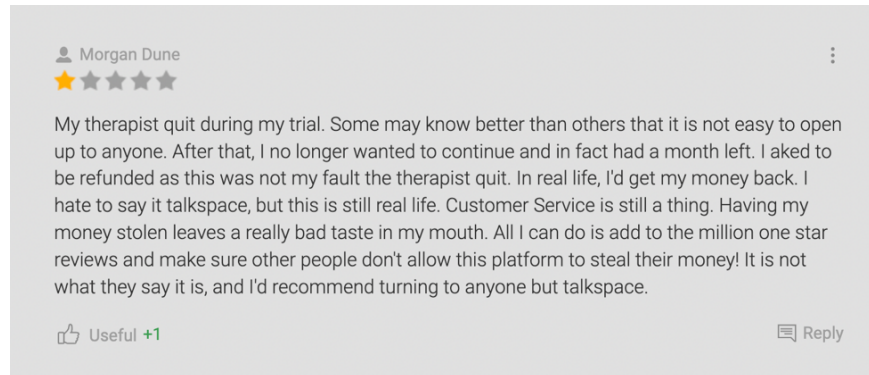
I would not waste your money on this service. I have been trying to get in touch with someone from their customer service team for a month now through different channels and have had no luck.

I started using the service on July 10 and selected a counselor. I didn't know she would be taking a vacation starting on July 13 until after I selected her. I spent three days exchanging messages with the counselor before she started her vacation. Four days after her vacation started I received a message saying she would remain on vacation for another 5 weeks. No one contacted me to tell me that I should get a new counselor, and personally I didn't want to after that experience. I was just left paying \$200 for three days of service and a few messages. Have been trying to reach someone in their customer service to get a refund. I cancelled my subscription but would like at least a partial refund for the month I paid for. It's extremely frustrating to waste your time being vulnerable with a counselor you don't know to get only 10% of the service you paid for.

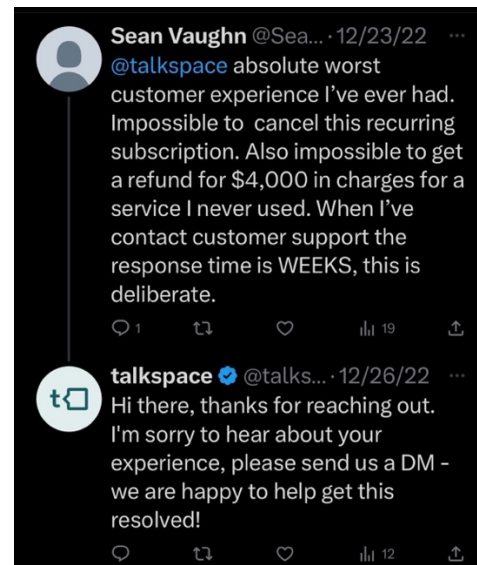
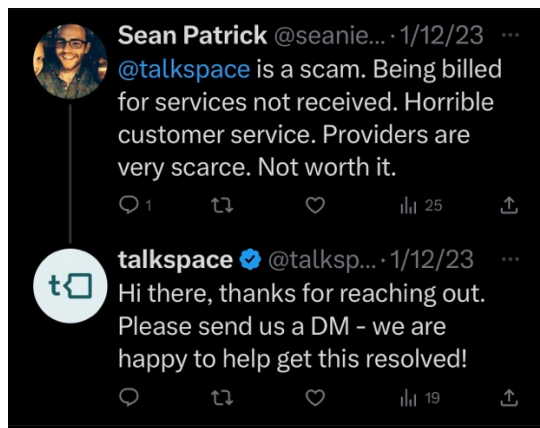
Obviously, this service is not helping people with mental health issues.

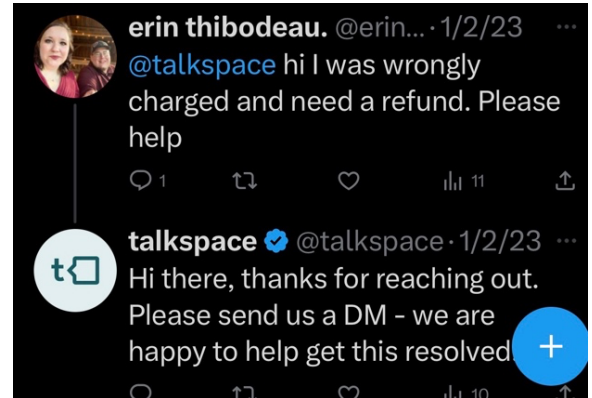
Useful +1

Reply



13 52. Twitter is likewise filled with patient complaints, including, for example:





53. These complaints demonstrate actual consumer confusion with respect to Talkspace's business practices.

54. In sum, patients turn to Talkspace for professional mental health services and find themselves unable to match with a suitable therapist and trapped in an automatically renewing monthly payment scheme they never signed up for. In an investigation of Talkspace, a journalist interviewed multiple Talkspace therapists and summed up their clinical experiences on the platform as follows: "Names of clients they have barely met can linger on therapists' caseloads as the company continues collecting its fee."¹⁶

Plaintiff Weizman's Experience With Talkspace

55. Plaintiff purchased therapy sessions from Talkspace in September 2022 using her credit card.

56. Plaintiff believed that Talkspace had a large network of therapists and that she would be matched with a suitable therapist for her personalized needs. Plaintiff also relied on Talkspace's representation that she would be able to seamlessly switch therapists at no extra costs.

57. Plaintiff was unaware that by purchasing therapy sessions from Talkspace, she

¹⁶ Molly Fischer, *The Therapy-App Fantasy: An Overwhelming Demand for Counseling Has Spawned Slickly Marketed Companies Promising a Service They Cannot Possibly Provide*, NEW YORK MAGAZINE (Mar. 29, 2021), <https://www.thecut.com/article/mental-health-therapy-apps.html>.

1 was entering into an automatically renewing subscription plan.

2 58. Plaintiff was initially matched with a therapist that she didn't feel comfortable
3 with, and it took Talkspace several weeks to match her with a new therapist. Plaintiff later
4 discovered that Talkspace entered her into an automatically renewing subscription plan, and that
5 during the time she was seeking a new therapist, Talkspace charged her credit card without her
6 permission even though Talkspace failed to match her with a new therapist and she was thus
7 incapable of receiving therapy services on the platform.

8 59. Plaintiff was unaware that Talkspace was charging her credit card each month.
9 When she discovered the charges, Plaintiff immediately contacted the company, but Talkspace
10 refused to give her a refund.

11 60. Plaintiff would not have purchased therapy services from Talkspace if she had
12 known that it lacked a large enough network of therapists on hand to provide services.

13 61. Plaintiff would not have purchased therapy sessions from Talkspace had she
14 known that it would enter her into an automatically renewing subscription plan without her
15 permission.

16 **CLASS ACTION ALLEGATIONS**

17 62. **Class Definition:** Plaintiff brings this proposed class action pursuant to Federal
18 Rule of Civil Procedure 23(b)(2) and Rule 23(b)(3) on behalf of herself and a class and subclass
19 of others similarly situated, defined as follows:

20 **Nationwide Class:** All individuals in the United States that purchased therapy
21 sessions from Talkspace and agreed to Talkspace's Terms of Use.

22 **California Subclass:** All individuals who reside in California that were
23 automatically enrolled into and charged for a Talkspace subscription plan.

24 (The Nationwide Class and California Subclass are collectively referred to as the "Classes").

25 63. **Numerosity:** The exact number of Class and Subclass members is unknown and
26 not available to Plaintiff at this time, but it is clear that individual joinder is impracticable. It is
27 believed that tens of thousands of consumers have purchased Talkspace plans and fall into the
28 class definitions, having been harmed by Talkspace's misrepresentations and failure to disclose

1 its automatic renewal terms. The number and identity of class members can be ascertained from
 2 Talkspace's records.

3 64. **Commonality and Predominance:** There are many questions of law and fact
 4 common to the claims of Plaintiff and the Classes, and those questions predominate over any
 5 questions that may affect individual members. Common questions for the Classes include, but
 6 are not necessarily limited to the following:

- 7 (a) Whether Talkspace made false or misleading statements or omissions with
- 8 regard to the availability of therapists on its platform and/or its matching process;
- 9 (b) Whether Talkspace enrolled patients into automatically renewing subscription
- 10 programs without consent;
- 11 (c) Whether Talkspace's automatic renewal offer was clear and conspicuous;
- 12 (d) Whether Plaintiff and the Classes are entitled to damages and/or restitution;
- 13 and
- 14 (e) Whether Talkspace should be enjoined from further engaging in the conduct
- 15 alleged herein.

16 65. **Adequate Representation:** Plaintiff will fairly and adequately represent and
 17 protect the interests of the Classes and has retained counsel competent and experienced in
 18 complex litigation and class actions. Plaintiff's claims are representative of the claims of the
 19 other members of the Classes. That is, Plaintiff and the members of the Classes sustained
 20 damages as a result of Defendant's conduct. Plaintiff also has no interests antagonistic to those of
 21 the Classes, and Defendant has no defenses unique to Plaintiff. Plaintiff and her counsel are
 22 committed to vigorously prosecuting this action on behalf of the members of the Classes and
 23 have the financial resources to do so. Neither Plaintiff nor her counsel has any interest adverse to
 24 the Classes.

25 66. **Predominance and Superiority:** Class proceedings are superior to all other
 26 available methods for the fair and efficient adjudication of this controversy, as joinder of all
 27 members of the Classes is impracticable. Individual litigation would not be preferable to a class
 28 action because individual litigation would increase the delay and expense to all parties due to the

1 complex legal and factual controversies presented in this Complaint. By contrast, a class action
 2 presents far fewer management difficulties and provides the benefits of single adjudication,
 3 economy of scale, and comprehensive supervision by a single court. Economies of time, effort,
 4 and expense will be fostered, and uniformity of decisions will be ensured.

5 **FIRST CAUSE OF ACTION**
 6 **Violation of the Delaware Consumer Fraud Act, 6 Del. Code § 2511, *et al.***
 7 **On behalf of Plaintiff Weizman and the Nationwide Class**

7 67. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

8 68. Under the Delaware Consumer Fraud Act (“CFA”):

9 The act, use, or employment by any person of any deception, fraud, false pretense,
 10 false promise, misrepresentation, unfair practice, or the concealment, suppression,
 11 or omission of any material fact with intent that others rely upon such concealment,
 12 suppression, or omission, in connection with the sale, lease, receipt, or
 advertisement of any merchandise, whether or not any person has in fact been
 misled, deceived, or damaged thereby, is an unlawful practice.

13 6 Del. Code § 2513(a).

14 69. Under Delaware law, a seller engages in a “deceptive trade practice” when it:

15 (a) “advertises goods or services with intent not to sell them as advertised,” *id.*

16 § 2532(9); and

17 (b) “advertises goods or services with intent not to supply reasonably

18 expectable public demand, unless the advertisement discloses a limitation of
 19 quantity,” *id.* § 2532(10).

20 70. Talkspace’s therapy services fall within the meaning of “merchandise” under the
 21 CFA. *Id.* § 2511(6).

22 71. Plaintiff and the Nationwide Class members fall within the meaning of “person”
 23 under the CFA. *Id.* § 2511(7).

24 72. As described in detail above, Talkspace violated the CFA in numerous ways,
 25 including by:

26 (a) Engaging in a marketing and billing program that is likely to mislead a
 27 reasonable consumer acting reasonably under the circumstances into
 28 unknowingly entering an automatically recurring subscription program;

- 1 (b) Using a billing mechanism that automatically charges customers without
2 their awareness or consent and failing to provide adequate disclosures regarding
3 the charges that would be imposed;
- 4 (c) Concealing from consumers that it lacked a therapist network that was
5 large enough to meet patient demand;
- 6 (d) Making false representations to consumers concerning the availability of
7 therapy sessions with therapists on its platform, and leading them to believe that
8 they would be able to conveniently book appointments;
- 9 (e) Making false representations to consumers about the manner in which they
10 would be matched with therapists, and omitting that matches would be primarily
11 determined by therapists' schedules rather than the patients' stated therapeutic
12 needs and preferences;
- 13 (f) Making false representations to consumers about the ability to
14 "[s]eemlessly switch providers," at any time;
- 15 (g) Making false representations to consumers that they would receive "high
16 quality care" on the platform despite that it lacked therapist capacity to
17 adequately serve its patients;
- 18 (h) Omitting material information in order to induce consumers to purchase
19 therapy sessions, including that the platform lacked therapist capacity to
20 adequately serve its patients and that they would be entered into an
21 automatically recurring subscription program;
- 22 (i) Making it difficult for customers to cancel their subscriptions, even as it
23 failed to provide the paid for services; and
- 24 (j) Concealing from consumers that the therapy sessions they purchased
25 would expire after 30 days.

26 73. Plaintiff and the Nationwide Class have suffered damages in the form of money
27 wrongfully charged for the automatically renewing subscription plan that they did not authorize
28 and could not easily cancel.

74. Plaintiff and the Nationwide Class also suffered damages in the form of money paid for services they did not receive.

75. As such, Plaintiff and the Nationwide Class, seeks an injunction and any other necessary orders or judgments that will prevent Talkspace from continuing its deceptive practices, as well as for restitution that will restore the amount of money paid to Talkspace for services that Talkspace failed to provide.

SECOND CAUSE OF ACTION
Violations of Cal. Bus. & Prof. Code § 17200, *et seq.*
On Behalf Plaintiff Weizman and the California Subclass

76. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

77. California’s Unfair Competition Law (“UCL”) prohibits unfair competition in the form of “any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising[.]” Cal. Bus. & Prof. Code § 17200. The UCL allows “a person who has suffered injury in fact and has lost money or property” to prosecute a civil action for violation of the UCL. *Id.* § 17204. Such a person may bring such an action on behalf of herself and others similarly situated who are affected by the unlawful and/or unfair business practice or act.

78. Talkspace’s acts and practices alleged herein are “unlawful” within the meaning of the UCL because they violated California’s Automatic Renewal Law (“ARL”), Cal. Bus. & Prof. Code § 17600, *et seq.*

79. The California Legislature enacted the ARL to “end the practice of ongoing charging of consumer credit or debit cards or third party payment accounts without the consumers’ *explicit consent* for ongoing shipments of a product or ongoing deliveries of service.” *Id.* § 17600 (emphasis added).

80. To achieve this goal, the ARL makes it unlawful, among other things, for any business offering an automatic renewal or continuous service to do the following:

- (1) Fail to present the automatic renewal offer terms or continuous service offer terms in a clear and conspicuous manner before the subscription or purchasing agreement is fulfilled and in visual proximity . . . to the request for consent to the offer; and
- (2) Charge the consumer’s credit or debit card, or the consumer’s account with a third party, for an automatic renewal or continuous service

without first obtaining the consumer's affirmative consent to the agreement containing the automatic renewal offer terms or continuous service offer terms, including the terms of an automatic renewal offer or continuous service offer that is made at a promotional or discounted price for a limited period of time.

Id. § 17602(1)-(2).

81. Next, the ARL requires that the automatic renewal offer contain the following disclosures: (1) that the subscription or purchasing agreement will continue until the consumer cancels; (2) the description of the cancellation policy that applies to the offer; (3) the recurring charges that will be charged to the consumer's credit or debit card or payment account with a third party as part of the automatic renewal plan or arrangement; (4) the length of the automatic renewal term or that the service is continuous, unless the length of the term is chosen by the consumer; and (5) the minimum purchase obligation, if any. *Id.* § 17601(b).

82. Finally, the automatic renewal offer must be "clear and conspicuous" which specifically means "in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks, in a manner that *clearly calls attention to the language.*" *Id.* § 17601(c) (emphasis added).

83. Plaintiff and the California Subclass are "consumers" as contemplated by the ARL because they purchased services from Talkspace for personal, family, or household purposes.

84. Talkspace's conduct of enrolling Plaintiff and the California Subclass into an automatically renewing subscription program is unlawful because:

(a) Talkspace failed to present the automatic renewal offer terms in a clear and conspicuous manner in visual proximity to the request for consent to the offer, in violation of § 17602(a)(1);

(b) Talkspace charged their credit or debit cards in connection with an automatic renewal without first obtaining their affirmative consent to an agreement containing clear and conspicuous disclosures of all automatic renewal offer terms, in violation of § 17602(a)(2);

(c) Talkspace failed to provide a cost-effective, timely, and easy-to-use mechanism for cancellation, in violation of § 17602(b); and

(d) Talkspace made it exceedingly difficult and unnecessarily confusing for patients to cancel their subscriptions, in violation of § 17602(b).

85. Each of these acts and practices constitutes an independent violation of the ARL, and thus an independent violation of the UCL.

86. Plaintiff and the California Subclass have suffered damages in the form of money wrongfully charged for the automatically renewing subscription plan that they did not authorize and could not easily cancel.

87. Under Cal. Bus. & Prof. Code § 17203, Plaintiff and the California Subclass seek restitution of all amounts paid in connection with the automatically renewing subscription plans, as well as injunctive relief prohibiting Talkspace from continuing to engage in the conduct alleged herein.

88. Plaintiff, individually and on behalf of the California Subclass, brings this action to enforce an important right affecting the public interest, and therefore also seek an award of attorneys' fees under Cal. Civ. Proc. Code § 1021.5.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Naomi Weizman, individually and on behalf of the Classes, respectfully requests that the Court enter an Order against Talkspace:

(A) Certifying the Nationwide Class and the Subclass, and naming Plaintiff as a representative of the Classes, and Plaintiff's attorneys as Class Counsel;

(B) Declaring that Talkspace's conduct violates the statutes referenced herein;

(C) Awarding injunctive and other equitable relief necessary to protect the interests of Plaintiff and the Classes, including by enjoining Defendant from continuing to engage in the unfair and unlawful business practices alleged herein;

(D) Awarding monetary damages, including without limitation, disgorgement, and restitution in an amount to be determined at trial;

(E) Awarding reasonable attorneys' fees and costs; and

(F) For any other relief this Court deems just, proper, and equitable.

JURY DEMAND

Plaintiff hereby requests a trial by jury of all issues so triable.

Respectfully submitted,

NAOMI WEIZMAN, individually and on behalf of
all others similarly situated,

Dated: March 1, 2023

By: /s/ Rafey S. Balabanian
One of Plaintiff's Attorneys

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**Pro Hac Vice Admission To Be Sought*